Reference: EDC/21/0132

Site Address: Car Park near 1 Aragon House, 65 Cherry Orchard, Castle Hill, Ebbsfleet Valley, DA10 1AD

Proposal: Non-material amendment to reserved matters planning permission reference no. EDC/17/0067 to allow for amendments to the approved landscaping scheme and the removal of parts a) and c) of condition 6.

Applicant: Newcrest Estates

Parish / Ward: Ebbsfleet

RECOMMENDATION: Approve subject to condition

Condition

1. The development hereby permitted shall be carried out in accordance with the details and annotations included on the following approved plans:

    - Typical Tree Pit Detail – Car Park Plan and Section – Raised Kerb Bed (26592, L6)
    - Typical Tree Pit Detail – Car Park Plan and Section (26592, L3, Rev D)
    - Landscape Schedule and Notes (26592, L5, Rev D)
    - General Arrangement and Soft Landscape Plan (26592, L1, Rev T)

    Reason: For the avoidance of doubt and to ensure a satisfactory form of development.

2. The soft landscaping scheme hereby approved shall be carried out in full during the first available planting season and maintained in accordance with the approved landscape management plan contained within the approved plans listed in condition 1. Any trees, plants or grass that die, are damaged, removed or become diseased shall be replaced with a species of a similar size and species during the next available planting season.

    Reason: In order to ensure an acceptable and functional standard of development upon completion, in accordance with Dartford Core Strategy Policy CS14 and Dartford Development Policies Plan Policy DP25.

Informatives

EXTENT OF THE APPROVAL
This decision notice has the effect of substituting the approved plans listed in condition 2 of planning permission reference EDC/17/0067 with those listed above. Accordingly, the following drawings previously approved are superseded by this decision notice:

- *General Arrangement and Soft Landscape Plan (26592, L1, Rev F)*

For the avoidance of doubt this decision notice does not amend any other part of planning permission reference EDC/17/0067.

This decision notice also has the effect of substituting the approved plans approved under discharge of condition permission reference EDC/19/0022 with those listed above.

Accordingly, the following drawings previously approved are superseded by this decision notice:

- *General Arrangement and Soft Landscaping Plan (26592, L1, Rev N)*
- *Typical Tree Pit Detail – Car Park Plan and Section (26592, AT-P14-60, Rev C1)*
- *Broxap Poplar Mild Steel Tree Guard (spike leg option with tree pit covered with self-binding gravel)*

For the avoidance of doubt this decision notice does not amend any other part of planning permission reference EDC/19/0022.

POSITIVE AND CREATIVE APPROACH TO DECISION MAKING
In accordance with paragraph 38 of the National Planning Policy Framework, Ebbsfleet Development Corporation, as local planning authority, has taken a positive and creative approach to the proposed development, focusing on finding solutions:

- The applicant/agent was provided with pre-application advice;
- The applicant/agent was advised of planning issues during the processing of the application and additional information has been submitted to address these;
- The application was determined within the relevant timescales

1.0 PROPOSAL

1.1 This is an application for a non-material amendment to planning permission EDC/17/0067, which was for reserved matters approval relating to access, appearance, landscaping, layout and scale for 56 dwellings, 911m^2 retail space, associated car parking, circulation space and landscaping, pursuant to outline planning application DA/12/01451/EQVAR.

1.2 The amendments relate to changes to the landscaping scheme in the car park area. Rather than have trees line the northern edge and centre of the car park, as approved under the existing consented scheme; it is proposed that trees be more spread out around the Site. It is understood the implementation of the utilities corridor has rendered the approved landscaping scheme obsolete and an alternative landscaping scheme is therefore sought. The total number of trees would remain the same. However, the changes would result in three trees, within two car parking bays on the northern edge of the car park; one tree in the south-western edge of the car park; seven trees between parking bays on the eastern north-south row of car parking; and three trees on the eastern edge of the car park. The new areas proposed for trees would also incorporate areas of shrub and ornamental planting. Finally, planting improvements are also proposed in the form of a new planter in the north-western corner of the car park and along the southern edge of the car park, along the perimeter boundary with Cherry Orchard Primary School. Details of root cells, tree pits and tree guards have been provided as necessary.

1.3 The removal of parts a) and c) of condition 6 of planning permission EDC/17/0067 is also proposed as part of this application. This is further explained in the planning appraisal section of this report.

2.0 RELEVANT PLANNING HISTORY

DA/03/1134/OUT	Outline permission for a mixed development comprising up to 6,250 dwellings and up to

	231,000sq metres of built floorspace for: business premises; education; community & social facilities; hotels; theatre; & supporting retail & leisure facilities & associated works. Approved 13.11.2007.
DA/12/01451/EQVAR	Section 73 permission for the variation of conditions of DA/03/1134/OUT to reflect a revised disposition of land uses across the site. Approved 18.01.2013.
EDC/17/0067	Reserved matters approval for 56 dwellings, 911m^2 retail floorspace and associated parking and landscaping. Approved 27.09.2017.
EDC/19/0022	Discharge of condition 6 attached to planning permission ref: EDC/17/0067 relating to the submission of landscaping details. Approved 05.07.2019.

3.0 DEVELOPMENT PLAN

3.1 The Development plan for the area comprises the Dartford Core Strategy (2011) and the Dartford Development Policies Plan (DDPP) (2017). The relevant policies referred to within these documents and used in the processing of this application are:

Dartford Core Strategy (2011)

- Policy CS17: Design of Homes

Dartford Development Policies Plan (DDPP) (2017)

- Policy DP2: Good Design in Dartford
- Policy DP25: Nature Conservation and Enhancement

Emerging Local Plan (2021)

3.2 A new local plan is also emerging. Given the early stage of this plan prior to adoption, it is afforded only limited weight in the determination of this application.

- Policy M1: Good Design for Dartford
- Policy M15: Biodiversity and Landscape

4.0 PLANNING APPRAISAL

4.1 The National Planning Practice Guidance (NPPG) Flexible options for planning permissions at paragraph 002 states "*There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990".*

4.2 At paragraph 005 it states "*As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2010 provisions relating to statutory consultation and publicity do not apply. Therefore, local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views. As by definition the changes sought will be non-material, consultation or publicity are unlikely to be to be necessary, and there are unlikely to be effects which would need to be addressed under the Environmental Impact Assessment Regulations 2011.*"

4.3 Policy DP2 of the DDPP and emerging Policy M1 of the emerging Local Plan set out that development will be permitted where it responds to, reinforces and enhances the positive aspects of the locality. Opportunities to create high quality spaces should be taken, particularly using prominent physical attributes (including tree coverage). Good design should be reinforced through integrated new development with the public realm, open space and natural features.

4.4 Policy DP25 of the DDPP and Policy M15 of the emerging Local Plan set out that, in all development proposals, trees should be retained wherever possible. If retention is demonstrated not to be feasible, replacement provision should be of an appropriate tree species and maturity.

4.5 The proposed amendment seeks to make minor changes to the proposed landscaping scheme across the Site, as described in the proposal section of this report. Overall, the number of trees would remain the same. However, their location would be amended so that they are more evenly distributed around the Site. This will create the effect of a greened pedestrian walkway around the edge of the car park, on a route that people are likely to take from Fastrack on their way to the village centre shops. The changes will also be likely to reduce overshadowing potentially created by the previously approved row of trees along the back edge of their gardens. In addition to the proposed changes in the location of the trees, the proposals will result in improvements to shrub and ornamental planting, with an increased number of planting locations throughout the Site and an improved mix of species.

4.6 In addition to the changes outlined in the previous paragraph, the proposal seeks to remove parts a) and c) of condition 6 of reserved matters consent EDC/17/0067. Condition 6 is worded as follows:

4.7 *"Notwithstanding the approved plans set out in condition 2 above, no development above foundation level shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority:*

a) Ornamental planting mix
b) A section drawing of the planter to the front elevation of the townhouses
c) Tree pit details

The details shall broadly accord with the details in the approved landscaping plan submitted with the application and the development carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development."

4.8 Condition 6 was fully discharged under permission reference EDC/19/0022. The reasons for the removal of parts a) and c) is that the ornamental planting mix and tree pit details are to be amended by this proposal. The previously approved details will

therefore no longer be of relevance and sufficient detail is included as part of this submission to satisfy these requirements of condition 6, negating the need for parts a) and c). Part b) would remain on the basis that no changes are proposed to the planters on the front elevation of the townhouses, and these details would still stand.

4.9 It is considered that the proposed amendments will result in an overall improvement to the landscaping in the car park area. Tree coverage is more evenly distributed, there are to be more planting areas and existing planting areas will also be improved. Given that the number of trees will remain the same and there has been little change to the principles of the landscaping scheme, it is also considered that the proposed amendments are non-material in their effect. Overall, therefore, it is considered that the proposed amendments uphold the key tenets of the reserved matters approval, are compliant with planning policy and are considered to be non-material. On this basis, the proposals are considered acceptable.

5.0 HUMAN RIGHTS

5.1 The application has been considered in the light of the Human Rights Act 1998 and it is considered that the analysis of the issues in this case, as set out in this report and recommendation below, is compatible with the Act.

6.0 PUBLIC SECTOR DUTY

6.1 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to –

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

6.2 It is considered the application proposals would not conflict with objectives of the Duty.

7.0 CONCLUSION AND RECOMMENDATION

7.1 The amendments to the development would not raise issues with regards to the aforementioned development plan policy and are considered non-material in their effect. On this basis, the proposal is recommended for approval.

Case Officer	Manager
Alex Tayler	Caroline Barker
Dated: 17/09/2021	Dated: 22.09.21